**HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI**
**AND**
**HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY**

**WRIT PETITION No.12360 OF 2006**

Between:

Inhabitants of Budhdad Colony,
Beside Huda Garden, Langer House,
Hyderabad

... Petitioner

And

The District Collector,
Hyderabad District at Hyderabad
& others

... Respondents

**:: O R D E R ::**

Counsel for respondent Nos.1, 2 and 7: Government Pleader for Revenue
Counsel for respondent No.9 : Shri M. Prabhakara Rao

February 26, 2007

**Per G.S. Singhvi, CJ**

Letter dated Nil sent by inhabitants of Budhdad Colony, Langer House, Hyderabad which was received by one of us (the Chief Justice) on 14.06.2006, was treated as a taken up petition in public interest.

By an order dated 20th July, 2006, the Court, after taking cognisance of the statement made by the learned Government Pleader that the land forming part of Survey No.172 measuring Ac.2.09 guntas shall not be allotted to anybody because it constitutes a part of the water body, disposed of the writ petition as infructuous.

The aforementioned order was recalled by an order dated 19.10.2006 passed in W.P.M.P.No.22036 of 2006 filed by Shri M.

Yellaiah, who was allowed to get himself impleaded as party by a separate order passed in W.P.M.P.No.20428 of 2006.

We have heard Shri M.Prabhakar Rao, learned counsel for Shri M. Yellaiah, learned Government Pleader for Revenue and perused the affidavits of the parties. In paragraphs 2 and 3 of affidavit dated 19.10.2006 filed by Shri Ch. Madhusudhan Rao, Mandal Revenue Officer, Golconda Mandal, Hyderabad, the deponent has averred as under:

> " 2) In reply para 2 it is respectfully submitted that on filing statement in U/s 6(1) of Urban Land Ceiling Act, 76 by one Sri Yerukala Agamaiah in respect of Sy.No.172 of Langer House Village to an extent of 8096.00 sq.mts., the Special Officer and Competent authority, Urban Land Ceiling, Hyderabad in his procdgs.No.B1/6130/76, dated 5.11.88 declared an extent of 8096 sq.mts as surplus land and ordered to hand over the possession of excess land to the Mandal Revenue Officer, Golconda Mandal. Accordingly, the possession of the land has been taken over from Special Officer and Competent authority, Urban Land Ceiling, Hyderabad by Revenue authorities on 30-11-88 duly conducting a panchanama. The said land was proposed for rehabilitation of (389) weaker section families of various localities to provide shelter to them. Subsequently the Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad vide procdgs. No.B1/6130/76 dated 19-9-2000, observed that Sy.No.172 of Langer House Village is a water body and as per the Govt. decision, all water bodies in twin cities should be preserved and maintained to improve the groundwater, during the period of drought and also to prevent floods, during heavy rains. Accordingly, the Special Officer and Competent authority, Urban Land Ceiling, Hyderabad in its order dated 19-9-2000, deleted the said land admeasuring Ac.2.09 Gts pertaining to the declarant. Sri Yerukala Agamaiah, from the computation subject to the condition that "no construction of houses is permitted in the exempted area and that any attempt on the part of declarant to sell the said exempted land for housing or any other purpose shall be liable for prosecution.

It is respectfully submitted that Sri M. Yellaiah S/o Yerukala Agamaiah filed w.P.No.6175/2003 before the Hon'ble Court, claiming that the HUDA is encroaching part of land in Sy.No.172 and that the S.O & C.A., U.L.C., Hyderabad has orered that the entire land admeasuring Ac.2.09 Gts. As non-vacant while treating Agamaiah as non-vacant land holder. The Hon'ble High Court in W.P.No.6175/2003 in its order dated 16-4-2003 ordered to conduct survey of the land in surrounding Sy.No.171, which is water body in the presence of all owners and persons, who are claiming interest in other Sy.Nos. and was given liberty to Sri Yellaiah to produce all necessary material in support of his claim that the same does not form part of full water body in Sy.No.171. it was also open to HUDA to support its claim that Sy.No.172 also forms part of full tank level (FTL)by producing necessary documents, revenue records and maps and if it is found that Sy.No.172 does not form part of water body, it is open to HUDA to acquire in accordance of law. Accordingly, as per orders of Hon'ble High Court, the Mandal Surveyor along with HUDA surveyor has conducted joint survey on 4-7-2003, in the presence of the owner of the land in Sy.No.172 and persons interested over the lands adjoining Sy.No.172 and fixed the boundaries of Sy.No.171 (Tank), 172, 173, as per TSLR and ROM, before the owners of Sy.Nos. 172 and 173 duly conducting panchanama. As per old records and map, theSy.No.172 is covered under water and it is submerged area and classified in phanai as "SHIKAM PATTA". During the field inspection, it was noticed that Sri Yellaiah illegally done plotting with an intention to sell the plotted lands, to innocent people by violating the conditions as ordered in Special Officer, and Competent Authority, U.L.C., Hyderabad Procdgs. NO.B1/6130/76 dated 19-9-2000. Accordingly, a letter was addressed to Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad on 20-5-2006, requesting the authority to prosecute the declarant, as he was violated the orders dated 19-9-2000 and also for passing revised orders in the matter. To this effect, the copies also were marked to sub-registrar, Golconda with a request not to register the said land, and A.P. Transco with a request not to give electricity permission and also to the M.C.H.

authorities not to accord permission for construction in the above said land. On 2-6-2006, the stones planted in the said land were removed."

Shri M. Yellaiah has not filed any counter to the above reproduced averments.

In view of the above, the writ petition is disposed of with the following directions:

(1) the official respondents and all other functionaries of the Government should ensure that the land in Survey No.172 which forms part of the water body and in respect of which Shikam patta was issued in favour of Yellaiah is not alienated to anyone by any mode whatsoever and no construction is allowed to be made on it,

(2) if Shri Yellaiah alienates the property or raises any construction over it, then all legally permissible actions should be taken against him, and

(3) District Collector, Hyderabad shall also be free to notify to the general public that in view of the Court order, the land forming part of Survey No.172 cannot be alienated to anyone and no construction can be raised over it.

**G.S. SINGHVI, CJ**

**C.V. NAGARJUNA REDDY, J**

February 26, 2007
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